

## Remarks/Arguments

This application has been carefully considered in light of the Initial and Non-Final Office Action mailed May 5, 2008. As a result, minor amendments have been made to the specification to specify the appropriate headings and the claims have been amended in order to overcome formal rejections raised by the Examiner and to further distinguish the invention with respect to the prior art.

The Examiner has raised two specific objections to the specification on pages 8 and 11 and the specification has been corrected to overcome these objections.

Claims 1-11 have been objected to because of various informalities and these informalities have been addressed in the amendments to the claims. Claims 1-11 have also been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In this respect, the claims have been amended to overcome this grounds for rejection. Reconsideration of this grounds for rejection is therefore respectfully solicited.

Claims 1, 2, 4-8 and 11 have been rejected under 35 U.S.C. 103(a) as being obvious and therefore unpatentable over US Patent 5,478,272 to Cozzini et al when considered in view of the

teachings of US Patent 5,505,107 to Frost. Claim 3 has been rejected as being obvious over the two primary references when further considered in view of US Patent 4,494,340 to Carter and US Patent 4,751,795 to Jenne.

The Examiner has indicated that claims 9 and 10 are directed to allowable subject matter and would be allowable if re-written to overcome the rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, and to include all the limitations of the base claims and any intervening claims.

The primary references to Cozzini et al and Frost have been considered but are not believed to teach the invention as disclosed in the present application and as set forth in amended claims 1-11. In addition, it is respectfully submitted that it would not be obvious to try or attempt to combine the structural teachings of Frost with those of Cozzini et al as to do so would change the inventive thrust of the Cozzini et al structure. Cozzini et al specifically designed their sharpening device to include resilient pivot members including torsion springs which are enclosed within a base member so as to be protected from debris and contaminants, see column 2 beginning at line 33 of the patent. Moreover, Cozzini et al also recognized that prior art arrangements which included exposed means such as counterweights, lever arm, springs and the like are all prone to collect food

particles and other debris during use, and thus are not desirable structures, see the first sentence of the paragraph beginning at line 45 of column 1 of the patent. In view of the foregoing, Cozzini et al specifically teaches that it is not desirable to use exposed counterweights as is taught in the secondary reference to Frost.

Further, in the Cozzini et al structure, the three sharpening arms are designed to depend vertically downwardly across the slot in the support member and are biased in pivotal motion by the resilient elements that are mounted within the support. The working portion of the sharpening arms 28, 30 and 32 of Cozzini et al are concavely configured upwardly so as to be engageable with a tool as it is inserted in the slot defined between the two points of pivotal attachment of the sharpening arms with the support. With Frost, however, the sharpening blades are actually convexly configured relative to a guide surface 16 of a support base such that it is the convexly curved surfaces that are the sharpening surfaces. With the Frost structure, the counterweights are formed integrally with the arms forming the convex sharpening surfaces with the pivot points being below the sharpening arms. Because of the orientation of the sharpening members 2 and 4 of Frost, the counterweights are positioned below and generally aligned with the sharpening arms 22 and 24. This configuration of counterweight could not be used

in the Cozzini et al device without further modifying the overall structure of Cozzini et al to change the blade orientation to be similar to that of Frost. It should be noted that Frost does not disclose a sharpening lever wherein the first arm and a second arm portion thereof are offset angularly as is taught by the structure of the present application which angular orientation is necessary so that the counterweight arm portion of each lever does not interfere with the movement of a tool being sharpened within the slot of the support.

In view of the foregoing and as Cozzini et al specifically teaches that the structure taught therein is desirable over counterweight devices, it is not believed that one of ordinary skill in the art would look to modify Cozzini et al utilizing an in-line counterweight lever as disclosed by Frost. Therefore, reconsideration of the rejection of the claims with respect to the combination of Cozzini et al and Frost is respectfully solicited.

As it is believed that the primary references do not suggest nor teach or make obvious applicants' invention as set forth in amended claim 1, it is also respectfully submitted that claim 3 would not be anticipated by a combination of the primary two references when further considered with the teachings of Carter and Jenne as the secondary references to Carter and Jenne do not

overcome the basic differences between the prior art and claim 1 of the present invention as amended for the reasons set forth above. Reconsideration of grounds for rejection of claim 3 is therefore respectfully solicited.

As further noted in amended claim 1, the counterweight arms of each lever extend at an angled relationship relative to the sharpening arms such that both first and second arms of each lever extend generally outwardly relative to one another on each side of the pivot points where the levers are mounted to the support. Such a structure is not disclosed in the secondary reference to Frost. In light of the foregoing, the present invention provides a unique counterweight structure for a sharpening device wherein the pivot levers are independently pivotable and wherein no springs elements are necessary to urge the levers to an initial rest position wherein a cutting tool may be inserted within the cut-out between the levers to initiate a sharpening motion of the tool relative to the sharpening elements or levers. Therefore, reconsideration of the grounds for rejection under 35 U.S.C. 103(a) is respectfully solicited and allowance of claims 1-11 is requested.

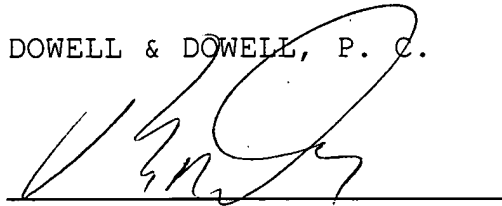
Should the Examiner have any questions concerning the allowability of the claims or the amendments submitted herewith, the Examiner is invited to contact the undersigned attorney of

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record at the telephone number shown below in order to further expedite the prosecution of this application. It is also requested that the Examiner grant an interview with the attorney of record prior to issuing any Action which may be considered as Final, to further expedite the prosecution of the application.

Respectfully submitted,

DOWELL & DOWELL, P. C.

A handwritten signature in black ink, appearing to read 'R. A. Dowell', is written over a horizontal line.

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